



## Social Media: Policy, Hiring, & Other Issues

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Staff Attorney



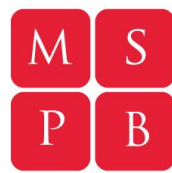
## Social Media in the Workplace

- Opportunities
  - Effective Communications
    - Internal Communications
    - External Communications
  - Employee Engagement
  - Managing the Agency's Reputation

## The Legal Landscape

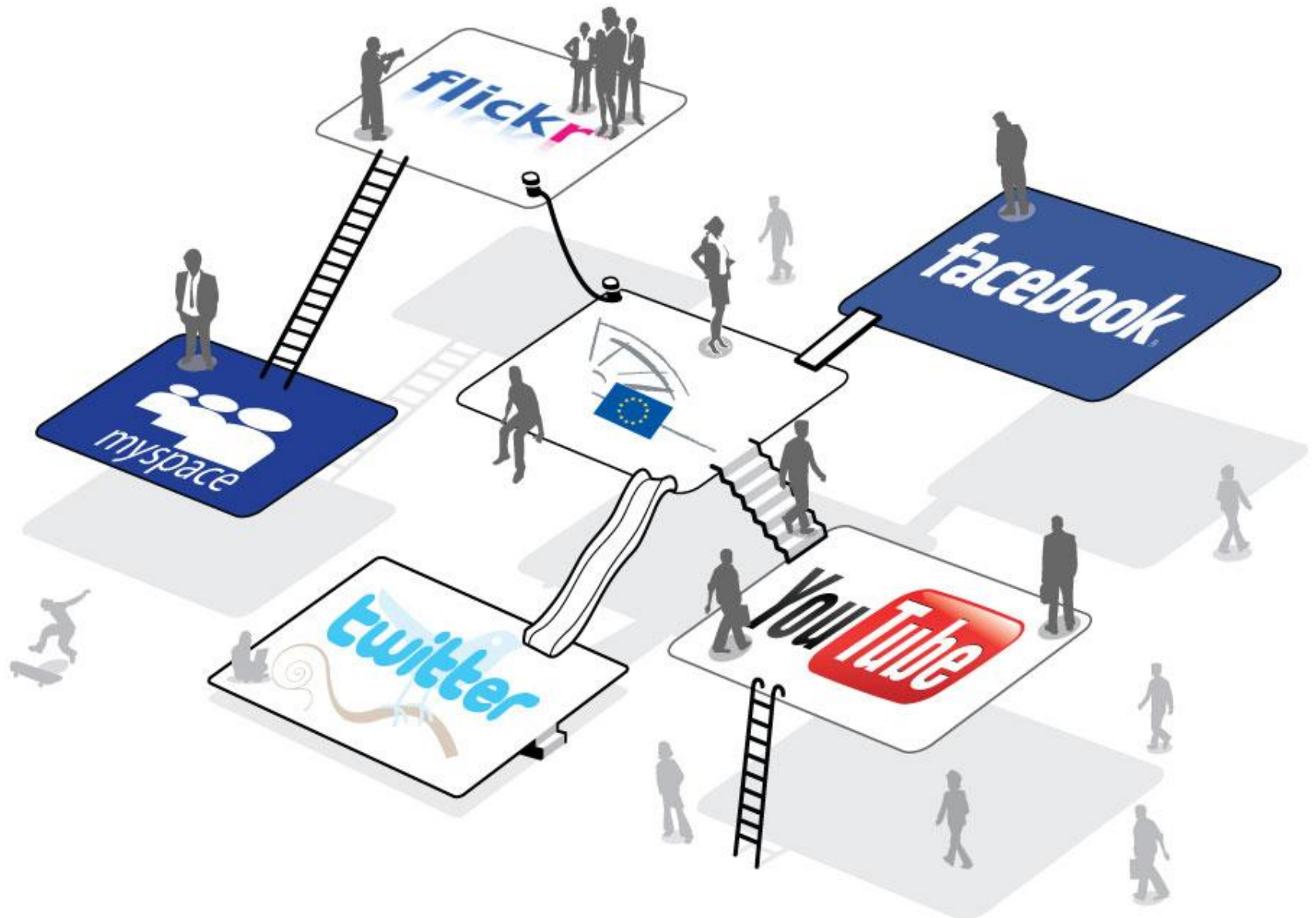
- Laws Regulate Social Media
  - Discrimination Laws
  - Electronic Communications Privacy Act
  - National Labor Relations Act
    - Prohibits discriminatory enforcement of policies based on union-related activities and “chilling” of employees’ exercise of rights under the Act.
  - Fair Labor Standards Act
  - Constitutional Issues
    - 1<sup>st</sup> Amendment
    - 4<sup>th</sup> Amendment





# MISSISSIPPI

STATE PERSONNEL BOARD



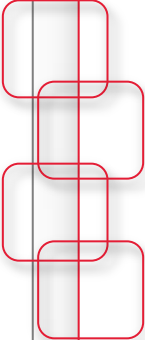
## Social Media Policy

- A. Any personal social media sites used by State employees may not be represented as official State sites. State email addresses should not be used to register for personal social media. State employees should not pressure or coerce other employees to “friend” or otherwise connect with them via social media.

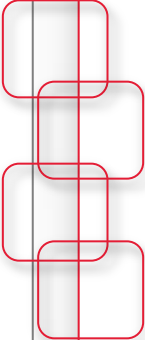


[See Section 7.5.11.2 of the Policy and Procedures Manual; and Section 5.15 of the State Employee Handbook]

## Social Media Policy

- 
- A decorative graphic on the left side of the slide, consisting of four overlapping squares. The top square is white with a red border, and the three squares below it are red with white borders.
- B. State employees are prohibited from sharing information or rumors that are false about the State, entities of the State, other employees or people working on behalf of the State. If information is shared related to employment with the State of Mississippi, it must be clear that the views expressed are a State employee's personal opinions alone and do not reflect the views of the State or any entities of the State. Any comments or posts may only express personal opinions and not those of the State, unless an employee is authorized to do so.

## Social Media Policy

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- A decorative graphic on the left side of the slide, consisting of four overlapping squares. The top square is white with a red border, and the three squares below it are red with white borders.
- C. Personal comments or postings on social media by state employees must be consistent with these policies. Comments, statements, photographs, video, or audio that are discriminatory, harassing, or threatening, or that demonstrate other unlawful conduct should not be made toward other State employees and clients or customers with legitimate business interests with the State of Mississippi.



## Social Media Policy

- The application of this policy should not be construed to infringe on any person's rights of expression which are guaranteed by law. However, violations of this policy are subject to disciplinary action as set forth in Chapter 9.

[See Section 7.5.11.2 of the Policy and Procedures Manual; and Section 5.15 of the State Employee Handbook]

## Social Media Hiring Issues

### An Exercise in Hiring

- John Responds to Your Ad for an Accountant
  - He is a Certified Public Accountant.
  - He has worked as a CPA for 16 years.
  - He has experience working for a corporation and private firm.
  - He is active in the community.
  - He has excellent references.
- You decide to check his Facebook.



John Smithers

Update Info

Activity Log



Timeline

About

Friends

Photos

More ▾

## About



### Work and Education

Edit



#### Salton Moore and Kyle, P.A.

Certified Public Accountant · Eau Claire, Wisconsin · 2001 to present



#### M&M's U.S.A.

Certified Public Accountant · 1997 to 2001



#### University of Vermont

Class of 1997 · MS Accountancy · Burlington, Vermont

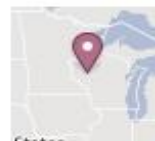


#### University of Michigan

Class of 1994 · Ann Arbor, Michigan

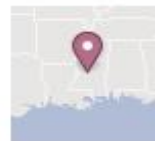
### Living

Edit



#### Eau Claire, Wisconsin

Current City



#### Jackson, Mississippi

Hometown

### Basic Information

Edit

Birthday January 1, 1972

Gender Male

Relationship Status It's Complicated

Religious Views Southern Baptist

### Relationships and Family

Edit



Add Your Relationships

## Social Media Hiring Issues

### What Did You Learn About John?

- Gender: Male (Title VII)
- Age: 41 (ADEA)
- Religion: Southern Baptist (Title VII)
- Relationship: It's Complicated
- Race: Caucasian (Title VII)
- Possible Alcoholic (ADA)



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**John Smith**

5 minutes ago  Only Me

Just got news that grandpa is needing a heart stent . . .

Like · Comment · Share



**John Smith**

35 minutes ago 

Thank goodness my lawyer got my felony expunged!! Now I can get a job! . . . but not before I have a few drinks!

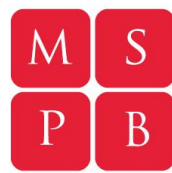
Like · Comment · Share



## What Else Did You Learn About John?



Possible Alcoholic (ADA)  
Family Medical History  
Criminal Background



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The Joy of Tech™

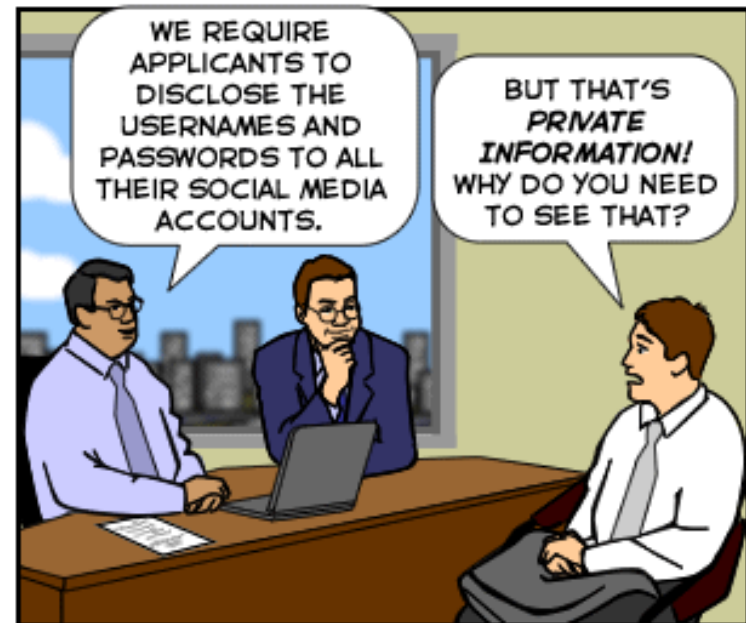
by Nitrozac & Snaggy



## Social Media Hiring Issues

### Failure to Hire is an Adverse Action

- Selection Process
  - EEOC will want the advertisement, interview notes, hiring policies, other candidates' qualifications/applications, etc.
- Electronic Discovery
  - Website searches, e-mails, voicemails, tweets
- Social Media Sites' Policies



## Social Media Hiring Issues

### Best Practices

- If It Cannot be Asked on an Application, It Cannot be Obtained by Other Means
  - Marital Status
  - Arrest Records
  - Bankruptcy
  - Citizenship (other than authorized to work)
  - Disability / Medical Inquiries (including workers' compensation)

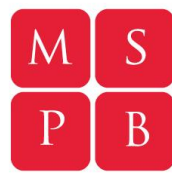


# Social Media at Work



## Social Media at Work





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## Social Media at Work

Sorry, I don't check my FB on the weekends... But you can reach me on there Monday-Friday from 9-5, while I'm at work.



your  cards  
someecards.com

## Social Media at Work



## Social Media Summary

### Best Practices: Policy

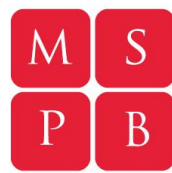
- Agency-Specific Concerns
  - No Disclosure of Confidential Information
- Acceptable Use
  - Professional, business-related communications if responsibility or duty of employee
- Unacceptable Use
- Disclaimers
- Discipline



## Social Media Summary

- Social Media Presents Opportunities and Challenges
- Use in Hiring Presents Risks
- Educate Employees on Policy
- Follow Advise of Agency Counsel





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## Questions?

